

ORIGINAL

702-0076

STATE OF ILLINOIS
SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

FILED

AUG 26 2002 CTR.-9

NORFOLK SOUTHERN RAILWAY
COMPANY,

Plaintiff,

vs.

ILLINOIS COMMERCE COMMISSION,

Defendant.

Anthony P. [Signature]

Clerk of the
Circuit Court

2002CH 00397

RECEIVED
AUG 27 2002

Illinois Commerce Commission
RAIL SAFETY SECTION

TEMPORARY RESTRAINING ORDER

This cause coming for hearing on August 26th, 2002, on the motion of plaintiff, by Charles J. Swartwout and Gundlach, Lee, Eggmann, Boyle & Roessler, its attorneys, for a temporary restraining order without notice to defendant, this motion being based on the verified complaint. And the court having considered the same, the court finds as follows:

1. The injury suffered by the plaintiff in this action is a violation of its rights to due process under the Constitution of the State of Illinois and the Constitution of the United States of America. This injury is irreparable in that the due process rights are potentially violated, and an injunction should issue because plaintiff's right to a fair hearing would be violated.

2. There is sufficient basis for granting this order without notice to defendant in that the regulation sought to be enforced is potentially void for vagueness and the plaintiff has a right to hearing before an unbiased decision maker. Immediate and irreparable injury, loss, and damage will result to the plaintiff before notice can be served and a hearing had upon notice, in that a hearing to enforce the Citation based solely upon a regulation which is questionably void as unconstitutional is set before a biased decision maker on August 28, 2002 at 10:00 a.m.

DOCKETED

3. This order expires on SEPTEMBER 5, 2002.

4. A temporary restraining order should be granted as prayed, and this injunction should issue without bond.

IT IS THEREFORE, ORDERED:

A. That defendant, Illinois Commerce Commission, and those in active concert with or participating with them, are hereby enjoined from engaging in a hearing upon Citation against plaintiff.

B. That this order shall expire on SEPTEMBER 5, 2002 and in no event shall extend beyond ten (10) days from this date, except by further order of this court allowing appropriate extension.

C. That this order may be enforced without notice to the defendant.

D. That this order be enforced without bond.

ENTERED at 3:40 (time), this 26th day of August, 2002.

Stuart Spill
JUDGE